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EXAMINER

GARCIA OTERO, EDUARDO

ART UNIT PAPER NUMBER

2123

DATE MAILED: 05/29/2002

#8 *Rovante*

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/333,379

Applicant(s)

HAGENBUCH ET AL.

Examiner

Eduardo Garcia-Otero

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 1999 . 1/15/02
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/16/99 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,6
- 4) ☒ Interview Summary (PTO-413) Paper No(s) 9
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Examined

1. **Claims 1-20 have been submitted, examined, and rejected.**

Second Non-Final Action on Merits

2. This is a new non-final action on merits fully replacing the previous action (Paper #8 mailed on March 7, 2002). A new 3 month time period for reply is given. See attached Interview Summary form 413 dated 17 April 2002.

Drawings-draftperson objection

3. **This application has been filed with informal drawings** which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed. Specifically, see the previously mailed Form 948, Notice of Draftperson's Drawing Patent Review which objects to the drawings.

Drawings-replete with prior art

4. **The drawings are replete with figures that should be designated by a legend such as --Prior Art--** because only that which is old is illustrated. See MPEP § 608.02(g). The drawings should be revised carefully in order to comply with MPEP § 608.02(g). Specifically, some examples are: FIG 1 is a truck chassis apparently identical to FIG 8B of US Patent 5,887,914. Additionally, FIG 2 is a body floor line apparently identical to FIG 9A of US Patent 5,887,914. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Drawings-colored photographs-mandatory objection

5. **The drawings contain colored photographs as FIG 21 and FIG 22.** 37 CFR

1.84(b)(2) states “Color photographs will be accepted in utility and design applications if the conditions for accepting color drawings and black and white photographs have been satisfied.”

Further, MPEP 608.02 states “Unless a petition is filed and granted... The examiner must object”.

Therefore, the Examiner hereby makes his mandatory objection.

Drawings-additional drawings required

6. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

7. Note that the specification discusses voids in a number of locations including: Page 2 line 26, Page 2 line 34, Page 9 line 35, and Page 11 line 33. However, no detailed written (words) description is given, no mathematical description is given, and no drawing is given. Additionally, many of the claims refer to these voids. For example, Claim 15 states “corner voids of the hauled material are modeled through a gradual incremental blending”. Claim 16 states “comparing the modeled corner voids with the field collected representation of the corner voids”.

8. Thus, the Examiner requires drawings illustrating the following:

9. (a)corner voids.

10. (b)corner voids of the hauled material are modeled through a gradual incremental blending.

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11. (c)comparing the modeled corner voids with the field collected representation of the corner voids.

Claim Rejections - 35 USC § 112- first paragraph- enablement

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. **Claims 10-11 and 13-18 are rejected under 35 U.S.C. 112, first paragraph**, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

14. **Claim 10 states** “a representation of corner voids present in actual loads”. The specification does not adequately describe “a representation of corner voids present in actual loads”. The specification only briefly discusses voids in a number of locations including: Page 2 line 25-34, Page 9 line 34-35, and Page 11 line 33-34. For example, Page 2 line 30 states “Because the load conforms to a generally conical shape, voids are created in the corners of the dump body where no material is present. The theoretical load profiles as used by truck manufacturers ignore these corner voids.” It is not clear if the voids are caused by failure to achieve an exactly conical shape, or if the voids are the spaces between the surface of the conical shape and the walls of the truck body, or some other definition. In the material science art, voids are generally surrounded by other material, and that does not appear to be the case here, so this definition also does not appear to apply to this application.

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15. The Examiner notes that given a density and a maximum weight determines the volume. Given a volume, a conical angle of repose, and a containing body shape, these factors determine the shape of the heap. Note that this shape of the heap will conform to the shape of the containing body at all contact surfaces. Thus, the nature of the voids discussed in the specification is unclear. Particularly, it is unclear how the theoretical load profiles as used by the truck manufacturers “ignore these corner voids” as stated in Page 2 line 34.

16. Note the Euclid Inc., Form 12-028 “Euclid R-85 B,” 01/91 at Page 3 in the small truck diagram at the top right. This small diagram displays a small gap between the profile of the load and the rear vertical portion of the truck body. It is possible that this is the type of void claimed by the application, but it is also possible that this gap is only the artist’s method of emphasizing the technique between the load and the rear vertical portion of the truck body. None of the other drawings by Euclid Inc. or by Caterpillar Inc. show this gap.

17. Additionally, the specification does not provide any adequate description or drawing of any void. Further, even the pictures of an actual load on an actual truck (FIG 21 and FIG 22) do not show any voids. Thus, the “corner voids” of Claim 10 are not described in sufficient detail as per 35 USC 112 first paragraph.

18. **Claims 11 and 13-17 depend from Claim 10 and inherit the same defect.**

19. **Claim 18 states “corner voids”, thus is rejected for the same reasons as Claim 10.**

Claim Rejections - 35 USC § 112-Second Paragraph-indefinite claims

20. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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21. **Claims 10-11 and 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

22. **Claim 10 states “corner voids”.** The specification and the claims have not particularly and distinctly defined “corner voids” in the context of heaped materials partially enclosed by a truck body, thus Claim 10 is indefinite. See the previous discussion relating to the enablement rejection.

23. **Claims 11 and 13-17 depend from Claim 10 and inherit the same defect.**

24. **Claim 18 states “corner voids”, thus is rejected for the same reasons as Claim 10.**

No Prior Art Examination - Indefinite Claims - In re Steele

25. **Claims 10-11 and 13-18 are so indefinite that no prior art examination is feasible.** Specifically, the Examiner should not rely “on what at best are speculative assumptions as to the meaning of the claims”, and should not base “a rejection under 35 U.S.C. 103 thereon...[when] the claims do not particularly point out and distinctly claim the invention as required by 35 U.S.C. 112.” In re Steele , 305 F.2d 859, 134 USPQ 292, 295 (CCPA 1962). Also see In re Citron, 45 CCPA 773, 251 F.2d 619, 116 USPQ 409.

26. Note that Claims 10-11, and 13-18 have been rejected under 35 USC 112 First Paragraph for lack of enablement, and further rejected under 35 USC 112 Second Paragraph for indefinite claims. The Examiner believes that it would be counter-productive to make speculative assumptions about the meanings of Claims 10-11 and 13-18 for the purpose of examination against prior art. These claims will be examined against prior art only after such an examination becomes feasible.

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27. The indefiniteness is discussed in detail in the above rejection.

Claim Rejections - 35 USC § 103

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

30. Claims 1-9, 12, and 19-20. are rejected under 35 U.S.C. 103(a) as being unpatentable.

31. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, p. 1-21. Claim 1 is an independent claim with 6 limitations.

32. Note that Hagenbuch US Patent 5,887,914 has a different inventive entity (LeRoy G. Hagenbuch) than the inventive entity of the present application (Leroy G. Hagenbuch and Philip T. Brinkman). Thus, Hagenbuch '914 constitutes 102(e) type prior art that may be used in a 103(a) rejection. Additionally, note that the MPEP 706.02(k) exclusion of 102(e) prior art

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assigned to the same person does not apply because this application was filed before November 29, 1999 (on June 15, 1999).

33. (a)“**determining a desired location for a load center of gravity**” is disclosed by Hagenbuch ‘914 at FIG 14A Step 2 “Calculate correct load placement center of gravity”.

34. (b)“**determining a desired volumetric capacity for the body**” is disclosed by Hagenbuch ‘914 at FIG 14B Step 8c “Dose (sic) trial load volume match maximum desired load...?”

35. (c)“**initial line for a floor..front wall...inside body width**” is disclosed by Hagenbuch ‘914 at FIG 9A “body floor line”, FIG 9B “front slope line”, and FIG 10A “inside body width”.

36. (e)“**adjusting a set of design parameters**” is disclosed by Hagenbuch ‘914 at FIG 14B Steps 8f “Too far forward” through Step 8m “Move Slope Components Rearward”.

37. (f)“**producing the body**” is disclosed by Hagenbuch ‘914 at FIG 14B Step 9 “DESIGN COMPLETED”.

38. Hagenbuch ‘914 does not expressly disclose (d)“using data collected from an anticipated point of use”.

39. (d)“**using data collected from an anticipated point of use**” is disclosed by Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, Page 6 first full paragraph “While field weight distribution will vary, depending upon loading techniques and material characteristics, continuous analysis of actual weight studies, indicates normal load shapes are actually closer to a 1.7:1 heaped load pattern. Caterpillar has thus adopted the 1.7:1 heaped load shape to calculate published figures for the 769B.”

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40. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, to modify Hagenbuch '914. One of ordinary skill in the art would have been motivated to do this to "efficiently haul loads of different volumes and material densities" according to Hagenbuch '914 Column 2 line 64.

41. **Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66.** Claim 2 depends from Claim 1 with one additional limitation, thus is rejected for the same reasons plus these additional reasons.

42. "design parameters of the body includes a position of the body floor and a position of body sidewalls" is disclosed by Hagenbuch '914 at FIG 9A "body floor line" and FIG 10A "inside body width".

43. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66.** Claim 3 depends from Claim 2 with one additional limitation, thus is rejected for the same reasons plus these additional reasons.

44. "position of the body floor includes a length of the floor" is disclosed by Hagenbuch '914 at FIG 14B "Establish maximum overall body dimensions".

45. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, and further in view of Euclid Inc., Form 12-015 "Euclid R-85 Specifications," 08/77.**

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46. Claim 4 depends from Claim 2 with one additional limitation, thus is rejected for the same reasons plus these additional reasons.

47. **“position of the body sidewalls includes a height of the sidewalls”** is disclosed by “Euclid Inc., Form 12-015 “Euclid R-85 Specifications”, 08/77 on Page 4 “the low loading height of 14-4” (4369 mm) allows sufficient clearance to cleanly deposit a full bucket load”.

48. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use “Euclid Inc., Form 12-015 “Euclid R-85 Specifications” and Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, to modify Hagenbuch ‘914. One of ordinary skill in the art would have been motivated to do this to allow “sufficient clearance to cleanly deposit a full bucket load” according to “Euclid Inc., Form 12-015 “Euclid R-85 Specifications”, 08/77 on Page 4.

49. **Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, and further in view of Euclid Inc., Form 12-015 “Euclid R-85 Specifications,” 08/77.**

50. Claim 5 depends from Claim 4 with one additional limitation, thus is rejected for the same reasons plus these additional reasons.

51. **“distance between the respective sidewalls”** is disclosed by **Form 12-015 “Euclid R-85 Specifications,” 08/77** at Page 4 “14’-10” 4521 mm”.

52. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use “Euclid Inc., Form 12-015 “Euclid R-85 Specifications” and Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,”

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08/24/66, to modify Hagenbuch '914. One of ordinary skill in the art would have been motivated to do this to allow give a "large target area...minimizes bucket spot time and shortens load time" according to "Euclid Inc., Form 12-015 "Euclid R-85 Specifications", 08/77 on Page 4.

53. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, and further in view of Euclid Inc., Form 12-015 "Euclid R-85 Specifications," 08/77.

54. Claim 6 depends from Claim 2 with one additional limitation, thus is rejected for the same reasons plus these additional reasons.

55. **"position of the body front wall"** is disclosed by **Form 12-015 "Euclid R-85 Specifications," 08/77** at Page 4 in the detailed dimensional drawings.

56. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use "Euclid Inc., Form 12-015 "Euclid R-85 Specifications" and Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, to modify Hagenbuch '914. One of ordinary skill in the art would have been motivated to do this to allow give a "large target area...minimizes bucket spot time and shortens load time" according to "Euclid Inc., Form 12-015 "Euclid R-85 Specifications", 08/77 on Page 4.

57. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, and further in view of Euclid

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Inc., Form 12-015 "Euclid R-85 Specifications," 08/77, and alternately further in view of Caterpillar Inc., Brochure AEO26730 "Caterpillar 769 Series B".

58. Claim 7 depends from Claim 4 with one additional limitation, thus is rejected for the same reasons plus these additional reasons.

59. **"adjust the length of the body floor and the height of the body sidewalls to provide the lowest practical vertical location for the center of gravity"** is disclosed by Hagenbuch '914 at FIG 14A Step 6b "Dose (sic) trial load center of gravity match correct load center of gravity?" and alternately disclosed by Caterpillar Inc., Brochure AEO26730 "Caterpillar 769 Series B" at page 15 second paragraph "lower the center of gravity of the truck".

60. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use Caterpillar Inc., Brochure AEO26730 "Caterpillar 769 Series B", and "Euclid Inc., Form 12-015 "Euclid R-85 Specifications" and Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, to modify Hagenbuch '914. One of ordinary skill in the art would have been motivated to do this to give "greater stability" according to Caterpillar Inc., Brochure AEO26730 "Caterpillar 769 Series B" page 15 second paragraph.

61. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66.** Claim 8 depends from Claim 1, with one additional limitation.

62. Hagenbuch '914 does not expressly disclose "data collected from the anticipated point of use includes angles of material repose of an actual load".

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63. **“data collected from the anticipated point of use includes angles of material repose of an actual load”** is disclosed by Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, at Page 6 second paragraph “While field weight distribution will vary, depending upon loading techniques and material characteristics, continuous analysis of actual weight studies, indicates normal load shapes are actually closer to a 1.7:1 heaped load pattern. Caterpillar has thus adopted the 1.7:1 heaped load shape to calculate published figures for the 769B”.

64. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use RELEASE NO. N149F, TITLE 769 SERIES B TRUCK, DATE AUGUST 24, 1996 to modify Hagenbuch ‘914. One of ordinary skill in the art would have been motivated to do this “efficiently haul loads of different volumes and material densities” according to Hagenbuch ‘914 Column 2 line 64.

65. **Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66.** Claim 9 depends from Claim 8, with one additional limitation.

66. Hagenbuch ‘914 does not expressly disclose “angles of material repose include a front angle of material repose, a rear angle of material repose and side angles of material repose”.

67. **“angles of material repose include a front angle of material repose, a rear angle of material repose and side angles of material repose”** is disclosed by Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, at Page 6 second paragraph “While field weight distribution will vary, depending upon loading

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techniques and material characteristics, continuous analysis of actual weight studies, indicates normal load shapes are actually closer to a 1.7:1 heaped load pattern. Caterpillar has thus adopted the 1.7:1 heaped load shape to calculate published figures for the 769B". Note that this "1.7:1 heaped load pattern" indicates a specific (and constant) angle of repose for front, rear, and sides.

68. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, to modify Hagenbuch '914. One of ordinary skill in the art would have been motivated to do this to "efficiently haul loads of different volumes and material densities" according to Hagenbuch '914 Column 2 line 64.

69. **Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66.** Claim 12 depends from Claim 1 with one additional limitation.

70. Hagenbuch '914 does not expressly disclose "field collected data further includes a density of the load material"

71. **"field collected data further includes a density of the load material"** is disclosed by Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, Page 6 first full paragraph "While field weight distribution will vary, depending upon loading techniques and material characteristics". These material characteristics inherently include density, which is the single most important characteristic."

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72. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use RELEASE NO. N149F, TITLE 769 SERIES B TRUCK, DATE AUGUST 24, 1996 to modify Hagenbuch '914. One of ordinary skill in the art would have been motivated to do this to "efficiently haul loads of different volumes and material densities" according to Hagenbuch '914 Column 2 line 64.

73. **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, and further in view of Caterpillar Inc., Brochure AE026730 "Caterpillar 769 Series B," Applicants believe available in 1967.** Claim 19 depends from Claim 1 with one new limitation, thus is rejected for the same reasons plus these additional reasons.

74. Hagenbuch '914 does not expressly disclose "adjusting the set of design parameters to provide the lowest practical vertical location for the center of gravity".

75. **"adjusting the set of design parameters to provide the lowest practical vertical location for the center of gravity"** is disclosed by Caterpillar Inc., Brochure AE026730 "Caterpillar 769 Series B," Applicants believe available in 1967 at Page 15 second paragraph "The V-shaped bottom of the body also serves to lower the center of gravity of the truck, giving the 769B greater stability.

76. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use Caterpillar Inc., Brochure AE026730 "Caterpillar 769 Series B," Applicants believe available in 1967 and Caterpillar Inc., Product Division, Field Representative Information Release, N149F "769 Series B Truck," 08/24/66, to modify Hagenbuch '914. One

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of ordinary skill in the art would have been motivated to do this to get “greater stability” according to Caterpillar Inc., Brochure AE026730 “Caterpillar 769 Series B,” Applicants believe available in 1967 at Page 15 second paragraph.

77. **Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagenbuch US Patent 5,887,914 in view of Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, and further in view of Caterpillar Inc., Brochure AE026730 “Caterpillar 769 Series B,” Applicants believe available in 1967.** Claim 20 depends from Claim 1 with one new limitation, thus is rejected for the same reasons plus these additional reasons.

78. Hagenbuch ‘914 does not expressly disclose “adjusting the set of design parameters to allow material to be loaded into the dump body from the lowest practical vertical location”.

79. **“adjusting the set of design parameters to allow material to be loaded into the dump body from the lowest practical vertical location”** is disclosed by Caterpillar Inc., Brochure AE026730 “Caterpillar 769 Series B,” Applicants believe available in 1967 at Page 15 first paragraph “Body height is 9’8” (2946 mm) allowing more than a foot (305 mm) of clearance for loading by a Cat 988 Wheel Loader.”

80. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use Caterpillar Inc., Brochure AE026730 “Caterpillar 769 Series B,” Applicants believe available in 1967 and Caterpillar Inc., Product Division, Field Representative Information Release, N149F “769 Series B Truck,” 08/24/66, to modify Hagenbuch ‘914. One of ordinary skill in the art would have been motivated to do this to allow “more than a foot (305 mm) of clearance for loading by a Cat 988 Wheel Loader” according to Caterpillar Inc.,

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Brochure AE026730 "Caterpillar 769 Series B," Applicants believe available in 1967 at Page 15 first paragraph.

Conclusion

81. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Garcia-Otero whose telephone number is 703-305-0857. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 7:00 PM.

82. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kevin Teska, can be reached at (703) 305-9704. The fax phone numbers for this group are:

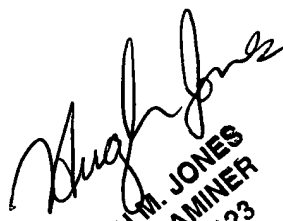
83. (703) 746-7238 --- for communications after a Final Rejection has been made;

84. (703) 746-7239 --- for other official communications; and

85. (703) 746-7240 --- for non-official or draft communications.

86. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist, whose telephone number is (703) 305-3900.

* * * *


DR. HUGH M. JONES
PATENT EXAMINER
ART UNIT 2123